

20:78:05:09. Board member conflict of interest. A board member who:

- (1) Is personally related to a party involved in a contested case proceeding or disciplinary action by two degrees of consanguinity;
- (2) Has a direct financial interest in a party involved in a contested case proceeding or disciplinary action through employment or by contract;
- (3) Directly supervises and is responsible for peer review of a party involved in a contested case proceeding or disciplinary action;
- (4) Or has a spouse employed by or directly contracts with a party involved in a contested case proceeding or disciplinary action; may not participate in the proceeding or action concerning that party. The member shall make an oral statement of recusal on the record at the initiation of the hearing. A recused member may not participate in board discussions or decision-making regarding that contested case proceeding or disciplinary action.

Source: 41 SDR 180, effective May 21, 2015.

General Authority: SDCL 36-4-35, 36-4A-42, 36-4B-35, 36-10-36, 36-10B-3, 36-29-17, 36-31-13, 36-36-12.

Law Implemented: SDCL 36-4-27, 36-4-28, 36-4-29, 36-4-30, 36-4-32, 36-4A-37, 36-4A-38, 36-4A-39, 36-4A-40, 36-4B-28, 36-4B-31, 36-4B-32, 36-4B-33, 36-10-38, 36-10-39, 36-10-40, 36-10-41, 36-10-44, 36-10-45, 36-10-46, 36-10-49, 36-10B-13, 36-10B-14, 36-29-18, 36-29-19, 36-29-20, 36-29-21, 36-29-22, 36-29-25, 36-29-26, 36-29-27, 36-31-14, 36-31-15, 36-31-16, 36-31-17, 36-31-18, 36-31-21, 36-31-22, 36-36-6, 36-36-13.

20:78:05:10. Board member potential conflict of interest. A potential conflict of interest is an indirect financial interest, or a personal relationship or another interest in a party involved in a contested case proceeding or disciplinary action that is different from that of the general public, that a reasonable person would believe might result in bias or prejudgment. A board member shall disclose any potential conflict of interest in a contested case proceeding or disciplinary action on the record at the initiation of the hearing, or during the hearing if the board member becomes aware of the existence of a potential conflict of interest at that time. Upon the board's own motion or the motion of a party, and considering the rule of necessity should maintenance of a quorum be an issue, the board may recuse a member with a potential conflict of interest if it determines that the potential conflict of interest raises an unacceptable risk of bias or prejudgment in the contested case proceeding or disciplinary action.

Source: 41 SDR 180, effective May 21, 2015.

General Authority: SDCL 36-4-35, 36-4A-42, 36-4B-35, 36-10-36, 36-10B-3, 36-29-17, 36-31-13, 36-36-12.

Law Implemented: SDCL 36-4-27, 36-4-28, 36-4-29, 36-4-30, 36-4-32, 36-4A-37, 36-4A-38, 36-4A-39, 36-4A-40, 36-4B-28, 36-4B-31, 36-4B-32, 36-4B-33, 36-10-38, 36-10-39, 36-10-40, 36-10-41, 36-10-44, 36-10-45, 36-10-46, 36-10-49, 36-10B-13, 36-10B-14, 36-29-18, 36-29-19, 36-29-20, 36-29-21, 36-29-22, 36-29-25, 36-29-26, 36-29-27, 36-31-14, 36-31-15, 36-31-16, 36-31-17, 36-31-18, 36-31-21, 36-31-22, 36-36-6, 36-36-13.